

BATTIS, J

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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THE ORIGINAL LOG CABIN HOMES LTD., :
(A New York Corporation) :
THE ORIGINAL LOG CABIN HOMES LTD. :
(A Delaware Corporation) :

Plaintiffs

v.

LOG CABIN HOMES USA,
SPECIALTY WHOLESALERS,
DAVID DEHART, EDMUND DEHART,
ALGIE DEHART, JOHN DOES
1 THROUGH 10 AND JOHN DOE
CORPORATIONS 1 THROUGH 10,

Defendant.

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**ORDER TO SHOW CAUSE RE:
TEMPORARY RESTRAINING ORDER
& PRELIMINARY INJUNCTION**

Case No. 07 CV 10352 (DAB)

**TO DEFENDANTS, LOG CABIN HOMES USA, SPECIALTY WHOLESALERS,
DAVID DEHART, EDMUND DEHART, ALGIE DEHART, JOHN DOES 1 THROUGH
10 AND JOHN DOE CORPORATIONS 1 THROUGH 10 AND TO THEIR ATTORNEYS
OF RECORD:**

Upon reading the Complaint and the Order to Show Cause for a Temporary Restraining Order and Preliminary Injunction; Memorandum of Points and Authorities in Support Thereof; Affidavit of Thomas J. Vesce and Affidavit of Stephen Brumfield, and all other papers and pleadings filed by the Plaintiffs in this action, and good cause appearing therefor; and it appearing to the satisfaction of the Court that this is a proper case for the granting of a Temporary Restraining Order and Preliminary Injunction in that Plaintiffs have shown a strong likelihood of success on the merits; that unless the Temporary Restraining Order and Preliminary Injunction be granted, great or irreparable injury will result to Plaintiffs during the pendency of this action; that serious questions are raised; and that the balance of hardships herein tip sharply in favor of the Plaintiffs.;

IT IS HEREBY ORDERED that

DEFENDANTS SHALL SHOW CAUSE, ~~before~~ *in Courtroom 24B* of this Court at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, NY 10007, on the 7th day of December, 2007, at 11:00 am, or as soon thereafter as counsel may be heard, why an order should not be issued and entered, pursuant to Rule 65 of the Federal Rules of Civil Procedure preliminarily enjoining, compelling and restraining Defendants, its officers, officers, agents, employees and all other persons or entities acting in concert with it, in accordance with the following:

1. Shall immediately cease the circulation of, and shall withdraw all advertising material and packaging: (a) that in any way implies or suggests that Defendants or its products are in any way connected, affiliated or have a business relationship with Plaintiffs; (b) that in any way implies or suggests that the photographs of Plaintiffs' custom log cabin homes posted on Defendants' website and brochure are products manufactured, sold or constructed by Defendants; and (c) that in any way implies or suggests that the Plaintiffs' copyright protected architectural renderings and floor plans showcased on Defendants' website and brochure are for products manufactured, sold or constructed by Defendants; and

2. Shall immediately cease and desist for using any copyrightable works owned by Plaintiffs which are protected by a registered copyright or otherwise; and

3. Shall immediately cease and desist for using: (a) the Log Cabin Homes USA name, (b) the WWW.LOGCABINHOMESUSA.COM website, (c) any other trade name or domain name substantially or confusingly similar to Plaintiffs' Marks or its website with the domain name WWW.LOGCABINHOMES.COM, and (d) that the

WWW.LOGCABINHOMESUSA.COM domain name shall be immediately transferred to ORIGINAL; and

4. Shall immediately cease and desist from (a) contacting any of Plaintiffs current customers or contacts; and (b) utilizing any documents or materials that Defendants have taken from Plaintiffs or Defendants had access to while in the employ of Plaintiffs; and

5. Shall immediately take all reasonable steps necessary to contact all prior recipients of communications containing any false statements and misrepresentations concerning Plaintiffs or Defendants, or the quality, design, images or origin of their products and to correct them; and it is further

ORDERED that, sufficient reason having been shown therefore, pending the hearing of Plaintiffs application for a preliminary injunction, pursuant to Rule 65 of the Federal Rules of Civil Procedure, the Defendants, its officers, officers, agents, employees and all other persons or entities acting in concert with it, are temporarily restrained and enjoined from the following:

1. the circulation of, posting or use of: (a) any advertising material and/or packaging that in any way implies or suggests that Defendants or its products are in any way connected, affiliated or have a business relationship with Plaintiffs; (b) any advertising material and/or packaging that in any way implies or suggests that the photographs of Plaintiffs' custom log cabin homes posted on Defendants' website and brochure are products manufactured, sold or constructed by Defendants; and (c) any advertising material and/or packaging that in any way implies or suggests that the Plaintiffs' copyright protected architectural renderings and floor plans showcased on Defendants' website and brochure are for products manufactured, sold or constructed by Defendants; and

2. using any copyrightable works owned by Plaintiffs which are protected by a registered copyright or otherwise; and

3. in any way using: (a) the Log Cabin Homes USA name, (b) the WWW.LOGCABINHOMESUSA.COM domain name or website, (c) any other trade name or domain name substantially or confusingly similar to Plaintiffs' protected marks or its website at the domain name WWW.LOGCABINHOMES.COM, and (d) that the WWW.LOGCABINHOMESUSA.COM domain name shall be immediately transferred to the Plaintiffs; it is further

ORDERED THAT A BOND in THE Amt of \$5,000.00 Be Posted By 11/27 2007

ORDERED, that upon service of this order, the Defendants shall not secrete or destroy documents belonging to any Defendant and relating or referring to any matter alleged in the complaint herein, and it is further

ORDERED, that upon service of this order, the Defendants are prohibited from transferring, liquidating, encumbering, or otherwise dissipating any asset of any Defendant, and it is further

ORDERED that service by delivery via Overnight Mail or hand delivery of this Order to Show Cause and the papers upon which it is based to Defendants, on or before the 21ST day of November 2007, shall be deemed good and sufficient service; and it is further

ORDERED that answering papers, *if any* to this Order to Show Cause, shall be served so as to be received by Drakeford & Kane LLC, 475 Park Avenue South, 15th Floor, New York, New York, 10016, on or before 5:00 p.m. on November 30, 2007.

DAB 11/20/07

Dated: New York, New York
November 20 2007

By:

Deborah A. Battis
USDC

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